

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TRIGINAL D. JACKSON,

Petitioner,

v.

CIV No. 12-0543 LH/SMV

**N.M. ATT'Y GEN. and
N.M. DEP'T OF CORR. PROB. & PAROLE,**

Respondents.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition [Doc. 51] ("PF&RD"), issued on March 14, 2013, and on Respondents' Motion to Dismiss Without Prejudice [Doc. 22] ("Motion" or "Motion to Dismiss"), filed on August 6, 2012. The Court, being fully advised in the premises, will ADOPT the PF&RD and DENY the Motion to Dismiss [Doc. 22] without prejudice.

Petitioner filed an application for habeas corpus relief under 28 U.S.C. § 2254 [Doc. 1] on May 10, 2012. Respondents moved to dismiss the Petition on the ground that Petitioner had failed to exhaust his state-court remedies. [Doc. 22]. On March 14, 2013, the Honorable Stephan M. Vidmar, United States Magistrate Judge, found that Petitioner's claims had been exhausted after the filing of the Motion to Dismiss. Thus, he recommended denying Respondents' Motion without prejudice. [Doc. 51] at 1.

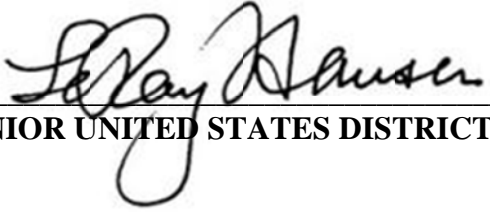
Petitioner filed a “response” to the PF&RD on March 26, 2013, but he neither objected to any of Judge Vidmar’s findings nor challenged his recommended disposition.¹ [Doc. 53]. Respondents filed no objection to the PF&RD, and the time for doing so has passed.

The Court finds that no party objected to the PF&RD. Accordingly, the Court will adopt the PF&RD. *See generally* 28 U.S.C. § 636(b)(1) (district judge’s de novo review only required of “those portions of the . . . recommendations to which objection is made”); *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1060 (10th Cir. 1996) (“[O]bjections to the magistrate judge’s report must be both timely and specific to preserve an issue for de novo review by the district court[.]”); *Duffield v. Jackson*, 545 F.3d 1234 (10th Cir. 2008) (“We have adopted a firm waiver rule when a party fails to object to the findings and recommendations of the magistrate [judge].”) (internal quotation marks and alteration omitted)).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Magistrate Judge’s Proposed Findings and Recommended Disposition [Doc. 51] is **ADOPTED**.

IT IS FURTHER ORDERED that Motion to Dismiss Without Prejudice [Doc. 22] is **DENIED without prejudice**.

IT IS SO ORDERED.



SENIOR UNITED STATES DISTRICT JUDGE

¹ Instead, Petitioner appears to explain why he filed his first federal habeas petition before exhausting his state-court remedies. *Id.* at 1. Petitioner also asserts that he is innocent, contends that “the case should be reviewed denovo [sic],” and complains that the New Mexico Supreme Court “refused to address any of [his] issues.” *Id.* Other than the argument regarding the standard of review, these statements are related to exhaustion, which is now moot, because the Court adopts Judge Vidmar’s finding that the substantive claims are exhausted.